

SMALL BUSINESS POCKET GUIDE

Small Business...



Is Big Business

U.S. Department of the Interior
Office of Small and Disadvantaged Business Utilization

2005 Small Business Pocket Guide

The U.S. Department of the Interior, Office of Small and Disadvantaged Business Utilization (OSDBU), hope you will refer to this handy reference guide whenever you encounter small business program issues, concerns or questions.

Did you know?

- 97% of all U.S. business firms are small (there are over 13 million small Enterprises)
- Small business accounts for 48% of the nonfarm gross national product (GNP)
- 55% of the U.S. labor force is employed by firms under 100 employees
- Small business accounts for two thirds of all new jobs created in the past ten years
- Small business leads in innovative research and development (R&D), producing 24 times as many major innovations as large businesses

What's so small about that!

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WHAT IS A SMALL BUSINESS?

Generally speaking, the term “small business” encompasses the following sub-sets:

- Small business concerns (SB),
- Small disadvantaged business concerns (SDB),
- Historically Underutilized Business Zone small business concerns (HUBZone)
- 8(a) program small disadvantaged business concerns (8(a)),
- Service Disabled Veteran-owned small business concerns (SDVOSB),
- Veteran-owned small business concerns (VOSB), and
- Woman-owned small business concerns (WOSB).

FAR 19.001 defines “**small business concern**” as a business entity, including its affiliates, organized for profit, that:

- is independently owned and operated,
- not dominant in the field of operation in which it is bidding on government contracts, and
- qualifies as a small business under the criteria and size standards in 13 CFR Part 121 (see FAR 19.102).

CERTIFICATIONS: Self-representation versus formal certification process

Some small business groups require formal certifications in order to receive the benefits of their specific small business program. Some groups merely self-represent their business status when completing the solicitation representations and certifications clauses. Contracting Officers should check Central Contractor Registration (www.ccr.gov) to check business status, or contact the SBA.

SMALL BUSINESS STATUS: Self-representation

SMALL DISADVANTAGED BUSINESS STATUS: Formal certification required by the SBA.

SBA’s 8(a) PROGRAM STATUS: Formal certification required by the SBA.

HUBZONE CERTIFICATION: Formal certification required by the SBA.

SERVICE DISABLED VET CERTIFICATION: Self-certification

WOMAN-OWNED SMALL BUSINESS STATUS: Self-certification

REQUIREMENT CODING: Using the North American Industry Classification System (NAICS)

WHEN TO USE: The NAICS code describes what is being purchased and is required on every requirement above the micro-purchase threshold. The contracting officer (CO) determines the appropriate NAICS code and related small business size standard and includes them in the solicitation. (FAR 19.303(a)).

HOW TO USE: The appropriate NAICS is selected based upon the CO’s thorough review of the acquisition documentation, including the statement of work, specifications, and other communications with requirements personnel. Then the CO will review the NAICS manual (www.census.gov/epcd/www/naics.html) and match the work to the appropriate NAICS Code. The Small Business Specialist and the SBA have input and opportunity to comment on the selected NAICS code either early in the acquisition planning or when reviewing the small business coordination documentation (i.e., DD 2579).

WHAT IS A SMALL BUSINESS SET-ASIDE?

A “set-aside for small business” is the reserving of an acquisition exclusively for participation by small business concerns.

WHEN TO USE: Acquisition of supplies or services valued between \$2,500 to \$100,000 are automatically reserved exclusively for small business and shall be set aside for small business unless there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery.

The CO shall set aside any acquisition over \$100,000 for small business participation when there is a reasonable expectation that offers will be obtained from at least two responsible small business concerns, and award will be made at fair market prices. (19.502-2)

HOW TO USE: Conduct market research.

Suggested method: CCR/Dynamic Small Business Search and relevant “NAICS Code” and/or “Keyword” criteria.

Go to: http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm (FAR 10.002(b)(2)).

Publish requirement as customary, noting Small Business Set-aside.

PROGRAM: The 8(a) Business Development Program Sole Source

FAR 19.8 covers contracting with the Small Business Administration or, as it is commonly known, the 8(a) program. Through their cooperative efforts, the SBA and an agency match the agency's requirements with the capabilities of 8(a) small disadvantaged business concerns.

WHEN TO USE: If you determine that:

1. The anticipated award price, including options, does not exceed \$5 million for manufacturing or \$3 million for all other requirements.
2. The vendor is responsible with respect to performance, and
3. The award can be made at a fair and reasonable price.
4. **Note:** The 8(a) firm must be a current participant in the 8(a) program on the date of award

HOW TO USE:

1. Conduct market research.
Suggested method: CCR Dynamic Small Business Search, using "8(a) Certification Required" and relevant NAICS code and/or Keyword criteria.
Go to: http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm
2. Negotiate requirement as customary

PROGRAM: The 8(a) Business Development Program Competitive

WHEN TO USE: If you determine that:

1. The anticipated award price, including options, exceeds \$5 million for manufacturing or \$3 million for all other requirements.
2. It is likely that two or more qualified 8(a) certified firms would submit offers, if the requirement were competed.
3. The requirement has not been accepted by SBA for award as a sole source 8(a) procurement on behalf of a tribally-owned or ANC-owned concern. (The competitive threshold does not apply to tribally-owned or ANC concerns.)
4. The vendor is responsible with respect to performance, and
5. The award can be made at a fair and reasonable price
6. The procuring activity will request that the SBA district office servicing the apparent successful offeror determine the firm's eligibility for award.

PROGRAM: 8(a) Alaska Native Corporations (ANCs) and Indian Tribally owned concerns

Affiliation rules: A concern owned by an Indian tribe or ANC cannot be found to be affiliated with the Indian tribe or ANC for any reason. In determining the size of a small business concern owned by a socially and economically disadvantaged Indian tribe (or a wholly owned business entity of such tribe) for either 8(a) BD program entry or contract award, the firm's size shall be determined independently without regard to its affiliation with the tribe, any entity of the tribal government, or any other business enterprise owned by the tribe, unless the Administrator determines that one or more such tribally-owned business concerns have obtained or are likely to obtain, a substantially unfair competitive advantage within an industry category. (SBA Legal opinion issued January 12, 2004)

PROGRAM: Exemption from competitive threshold for 8(a) Participants owned by ANCs and Indian Tribes

HOW TO USE: SBA may award a sole source 8(a) contract to a Participant concern owned and controlled by an Indian tribe or an ANC where the anticipated value of the procurement exceeds the applicable competitive threshold if SBA has not accepted the requirement into the 8(a) BD program as a competitive procurement. There is no requirement that a procurement must be competed whenever possible before it can be accepted on a sole-source basis for a tribally-owned or ANC-owned concern, but a procurement may not be removed from competition to award it to a tribally owned or ANC-owned concern on a sole-source basis (13 CFR § 124.506 (b)).

Caution: If in doubt regarding size, it is appropriate to seek a formal size determination from the SBA's Office of Government Contracting. Such a request may be made either by the contracting officer or the SBA.

PROGRAM: HUBZone Sole-Source

WHEN TO USE: If you determine that:

1. Requirement is not being performed by a non-HUBZone small business;
2. Requirement is greater than the simplified acquisition threshold;
3. Only one HUBZone-certified firm can satisfy the requirement;
4. It is not likely that two or more qualified HUBZone certified firms would submit offers, if the requirement were competed;
5. The anticipated award price, including options, does not exceed: \$5 million for manufacturing; or, \$3 million for all other requirements.
6. The vendor is responsible with respect to performance; and
7. The award can be made at a fair and reasonable price. (FAR 19.1306 (a))

HOW TO USE: Conduct market research.

Suggested method: CCR/Dynamic Small Business Search, using “HUBZone Certification Required,” and relevant “NAICS Code” and/or “Keyword” criteria. Go to: http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm. (FAR 10.002(b)(2)).

Negotiate requirement as customary.

PROGRAM: HUBZone Set-Aside

WHEN TO USE: Whenever there is a reasonable expectation that:

1. Two or more qualified HUBZone small business concerns will compete for the requirement, and
2. The requirement can be obtained at a "fair and reasonable" price. (FAR 19.1305 (a)).

HOW TO USE: Conduct market research to establish 1 and 2, above. Suggested method: CCR/Dynamic Small Business Search, using “HUBZone Certification Required,” and relevant “NAICS Code” and/or “Keyword” criteria. Go to: http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm (FAR 10.002(b)(2)).

Publish requirement as customary, noting HUBZone Set-Aside.

PROGRAM: Full and Open Competition, with HUBZone Price Evaluation Preference

WHEN TO USE: If you determine that:

1. The requirement is greater than or equal to the simplified acquisition threshold;
2. Price is a selection factor;
3. All fair and reasonable offers are not accepted. (FAR 191307(a)).

HOW TO USE: Conduct market research to establish 1 and 2, above. Suggested method: CCR/Dynamic Small Business Search, using “HUBZone Certification Required,” and relevant “NAICS Code” and/or “Keyword” criteria. Go to: http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm (FAR 10.002(b)(2)). Publish requirement as customary. Price evaluation preference of 10% applied to all offers except those: of HUBZone small business concerns; of other small business concerns, of eligible products under Trade agreements Act, and, where application would be inconsistent with memoranda of agreement of international agreements with foreign governments. (FAR 19.1307(b)).

PROGRAM: All HUBZone Set-Asides, HUBZone Sole-Source, Full and Open Competition with Application of HUBZone Price Evaluation Preference

JOINT VENTURES: All parties to joint venture must be HUBZone-certified. (13 CFR 126.616) Joint ventures under HUBZone authority are not approved by SBA.

NON-MANUFACTURING RULE WAIVER: There are no non-manufacturing rule waivers under HUBZone authority. However, for contracts at or below \$25,000, firm may provide the end item of any domestic manufacturer. (13 CFR 126.601)

SUBCONTRACTING LIMITATIONS: For construction and service requirements under HUBZone authority, HUBZone-certified firms must perform at least 50% of the effort. . (13 CFR 126.700)

DOD –

MENTOR PROTEGE: Recognized mentor protégé relationships will not result in finding of affiliation. Protégée may team with and subcontract to its mentor. (13 CFR 126.618)

PROGRAM: Relationship between 8(a) Standard Joint Venture (JV) and 8(a) Mentor Protégé Joint Venture

Standard Joint Venture (JV) (13 CFR 124.513):

1. JV represents a single entity that will perform on a specific contract.
2. Size: The combined size of the two partners must be small for the JV to be eligible.
3. JV approved by the local SBA office district director.

8(a) Mentor Protégé JV (13 CFR 124.520):

1. 8(a) firm must be protégé.
2. Mentor may be a large business as only the size of the protégé is what counts, (provided the protégé qualifies as small for the size standard corresponding
3. to the NAICS code assigned to the procurement) due to the exclusion from affiliations rule. (13 CFR 121.103).

RELATIONSHIP BETWEEN 8(a) AND HUBZone PROGRAMS: SBA's Procedural Notice of October 10, 2001 established that:

1. HUBZone and the 8(a) Programs have parity in the order of precedence;
2. Contracting officers are free to use their best judgment as to which vehicle is most appropriate. Program goal achievement may be a factor in this determination.

Requirements currently awarded under the 8(a) Program cannot be awarded under HUBZone authority unless released from the 8(a) Program by SBA (13 CFR 126.605).

PROGRAM: 8(a) Joint Ventures (JV) in General

WHEN TO USE: There is no limitation on the type of 8(a) contract for which a joint venture may be eligible. Thus, JV may qualify for either a sole source or competitive 8(a) procurement. 13 CFR 124.513 (a), (2) provides that a JV is "permissible only where an 8(a) concern lacks the necessary capacity to perform the contract on its own, and the agreement is fair and equitable and will be of substantial benefit to the 8(a) concern."

HOW TO USE:

1. The local SBA district director must approve of all 8(a) joint ventures before contract award.
2. Joint ventures are approved by the SBA district director only on a contract by contract basis.
3. It is the responsibility of the procuring activity to confirm eligibility of the JV with SBA, prior to awarding the contract.

PROGRAM: Service Disabled Veteran Owned Small Business (SDVOSB)

Federal Register v69 No. 87, May 5, 2004 is effective immediately (FAR 19.14)

- Allows small businesses to self-certify as service disabled veteran-owned businesses.
- Significantly and permanently impaired veterans may be assisted in the daily business operations by a spouse or permanent caregiver.
- Any challenge to a firm's status as a small business or standing as a service-disabled veteran-owned small business must be referred to the SBA for resolution.

Exclusions from SDVOSB set-aside rules:

- Federal Prison Industries
- Javits-Wagner-O'Day organizations
- existing IDIQ contracts
- federal supply schedule sources
- requirements currently in the 8(a) program, unless released by the SBA, and
- commissary sales

PROGRAM: Service Disabled Veteran Owned Small Business (SDVOSB) Set-Aside

WHEN TO USE: If the CO determines that:

There is a reasonable expectation that not less than 2 small business concerns owned and controlled by service-disabled veterans will submit offers and that the award can be made at a fair market price.

HOW TO USE: Conduct market research. Publish requirement as customary, noting Service-disabled Veteran-owned Set-Aside. Contract is awarded on the basis of competition restricted to small business concerns owned and controlled by service disabled veterans.

SBA PCR may appeal a CO decision not to do a set-aside above the SAT. If only one offer is received, the CO may award if price is reasonable. If no offers are received, the CO must cancel and compete as a small business set-aside.

PROGRAM: Service-Disabled Veteran Owned Small Business (SDVOSB) Sole source

WHEN TO USE: If the CO determines that:

1. A SDVOSB concern is a responsible contractor with respect to performance.
2. There is not a reasonable expectation that 2 or more small business concerns owned and controlled by service-disabled veterans will submit offers for the contracting opportunity.
3. The anticipated award price of the contract (including options) will not exceed \$5 million in the case of a contract opportunity assigned in NAICS codes for manufacturing; or \$3 million in the case of any other contract opportunity;
4. The contract award can be made at a fair and reasonable price.

HOW TO USE: Conduct market research. Document findings. Negotiate as customary.

Noncompetitive SDVOSB procedures may be used below the Simplified Acquisition Threshold.

PROGRAM: Contracting with Service Disabled Veteran Owned Small Business (SDVOSB)

Joint Ventures may be SDVOSB if at least one member of the JV is a service disabled vet, the partners are small businesses, the SDVOSB receives at least 51% of the profits and the agreement is in writing.

You can search for service disabled veteran-owned small businesses in:

1. VIP Database, at <http://vip.vetbiz.gov/search/default.asp>
2. Central Contractor Registration, Dynamic Small Business Search, at http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm

PROGRAM: Evaluation Factor for Small Disadvantaged Business (SDB) Participation (FAR 19.1202)

WHEN TO USE:

1. In all competitive, negotiated acquisitions expected to exceed \$1 million for construction, and \$500,000 for all other, except as excluded:
2. Excluded requirements: HUBZone set-asides, and service-disabled veteran-owned small business set-asides; 8(a) acquisitions; negotiated acquisitions where the lowest price, technically acceptable source selection process is used; or contract actions
1. that will be performed entirely outside of the United States and its outlying areas.
2. This mechanism is mandatory when applicable.

HOW TO USE:

1. Require offerors to provide targets, expressed as dollars and percentages of total contract value, by the contractor, including joint venture partners, and team members, and a total target for SDB participation by subcontractors.
2. Require an SDB offeror that waives the SDB price evaluation adjustment, to provide with its offer a target for the work that it intends to perform as the
 1. prime contractor.
 2. Targets will be incorporated into and become part of any resulting contract. Contractors with SDB participation targets shall be required to report SDB participation.
 3. participation.
 4. SDB concerns considered in the evaluation are listed in the contract, and the contractor shall be required to notify the CO of any substitutions of firms that are not SDB concerns.
 5. Clauses at 52.219-25 are used.

PROGRAM: Incentive Subcontracting with Small Disadvantaged Business (SDB)

WHEN TO USE:

1. Negotiated Acquisitions containing targets for SDB participation (only used when the contract is expected to exceed \$500,000 or \$1 million for construction).
2. When the contracting officer considers it necessary or desirable to encourage subcontracting opportunities for small disadvantaged businesses.
3. This mechanism is always optional at the discretion of the agency. (FAR 19.1203)

HOW TO USE:

1. When contracting by negotiation, insert a clause substantially the same as the clause at 52.219-26, Small Disadvantaged Business Participation Program-Incentive Subcontracting, in solicitations and contracts containing the clause at 52.219-25,
1. Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting.
2. Include an award fee provision in lieu of the incentive, if appropriate; in such cases, however, do not use the clause at 52.219-26. (19.1204(c))

PROGRAM: Contract Assistance for Women Business Owners (CAWBO)

The 1994 Federal Acquisition Streamlining Act (FASA) set a 5% government- wide goal for procurement dollars (both prime and subcontracting) to women-owned small businesses (WOSBs)

- Small businesses to self-certify as women-owned small businesses .
- See also <http://www.womenbiz.gov> for more information.

See also <http://www.women-21.gov>, which is a portal for women's entrepreneurship in the 21st Century.

APPEALS/PROTESTS:

NAICS APPEALS: The CO's NAICS determination is final unless appealed IAW FAR 19.303. The appeal petition must be in writing and served and filed within 10 calendar days after the issuance of the initial solicitation. SBA's Office of Hearings and Appeals (OHA) decides such appeals.

SMALL BUSINESS REPRESENTATION PROTESTS: An offeror represents that it is a small business concern in connection with a specific solicitation if it meets the definition of a small business concern applicable to the solicitation (IAW the NAICS size standard). Another offeror, the SBA, or another interested party may protest the SB representation of an offeror. (NOTE: For competitive 8(a) contracts, only an offeror, the CO or the SBA may file a protest.) A protest by any concern or other interested party must be received by the CO within five business days after bid opening (in sealed bid acquisitions) or receipt of the notification from the CO that identifies the apparently successful offeror (in negotiated acquisitions). The CO may question the small business representation at any time before or after award.

Within 10 business days after receiving a protest, the challenged offeror's response, and other pertinent information, the SBA Government Contracting Area Director or designee will determine the size status of the challenged concern and notify the contracting officer, the protester, and the challenged offeror of its decision.

The provision at 52.219-1, Small Business Program Representations, or 52.212-3(c)(4), Offeror Representations and Certifications-Commercial Items, is used by offerors to provide their business status.

DISADVANTAGED BUSINESS STATUS PROTESTS: FAR 19.304, to be eligible to receive a benefit as a prime contractor based on its disadvantaged status, a concern, at the time of its offer, must either be certified as a small disadvantaged business (SDB) concern or have a completed SDB application pending at the SBA (see FAR 19.001).

This is a formal certification process and not to be confused with "self-representation" as a small business concern.

The CO may confirm that the concern is identified as a SDB concern by accessing Central Contractor Registration (see www.ccr.gov) or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility.

An offeror, excluding an offeror determined by the CO to be non-responsive or outside the competitive range, or an offeror that SBA has previously found to be ineligible for the requirement at issue, may protest the apparently successful offeror's representation of disadvantaged status by filing a protest in writing with

the CO. The CO or the SBA may protest in writing a concern's representation of disadvantaged status at any time following bid opening or notification of intended award. SBA regulations concerning such protests are contained in 13 CFR 124, Subpart B.

HUBZONE STATUS PROTESTS:

1. Who initiates? For sole-source awards, SBA or the contracting officer; for competitive awards, any interested party.
2. Format: in writing and specific.
3. Filing: Unsuccessful offeror - to the contracting officer; contracting officer or SBA, to the AA/HUBZone.
4. Delivery: in person, by Fax, U.S. Postal Service, or Express Mail.
5. Timeliness: 5 business days of bid opening or notification of successful offeror.
6. Processing: SBA will notify the contracting officer and the protester of the date of receipt and whether the protest will be processed or dismissed; SBA will determine HUBZone status within 15 business days of receipt unless extended.
7. The AA/HUBZone makes final determination; SBA will notify the CO, protester, and the protested firm of its determination. If upheld, the protested firm is decertified, effective immediately.
8. If SBA fails to decide the protest within 15 business days, unless the CO grants an extension, the CO may award the contract.
9. Appeals: The HUBZone SBC, protestor, or CO may appeal; appeals must be received by SBA within 5 business days after receipt of the protest determination; SBA will only re-examine cases where there was a clear and significant error or complete failure to consider a significant fact. Appeals must be in writing. Appeals will be decided by the ADS/GC & BD. (13 CFR 126.800-805)

If the SBA determines that a concern is a qualified HUBZone small business concern, it will issue a certification to that effect and will add the concern to the List of Qualified HUBZone Small Business Concerns on its Internet website at <http://www.sba.gov/hubzone>. A firm on the list is eligible for HUBZone program preferences without regard to the place of performance. The concern must appear on the list to be a HUBZone small business concern.

SERVICE DISABLED VETERAN-OWNED SMALL BUSINESS PROTESTS

1. Protests involving the veteran's service-connected eligibility: The CO receiving the protest refers the matter to the SBA's Office of Government Contracting for resolution.
2. SBA will rely upon existing VA or DOD determinations and will help enforce penalties for false representation. If SBA fails to decide the protest within 15 business days, unless the CO grants an extension, the CO may award the contract.

ADDITIONAL RESOURCES:

The Air Force Small Business Office has web-based training courses to assist you in expanding your awareness and knowledge of socioeconomic programs. These courses can also be used towards your continuing education requirements.

The following courses are available at www.selltoairforce.org, under Training:

- Small Business Utilization
- Acquisition Forms
- HUBZone Program
- DCAA and the Acquisition Professional
- PRONet (now Central Contractor Registration)
- Contractor Payment Information
- How to Sell to the Air Force
- How to do Market Research

In development:

- Source Selection Process
- SB Contracting Primer
- Indian Incentive Program
- Preparing Source Approval

Websites and other informational resources:

SBA www.sba.gov
HUBZone www.sba.gov/hubzone
email: hubzone@sba.gov
Tel: (202) 205-8885

SDB www.sba.gov/sdb
email: sdb@sba.gov
Tel: (202) 619-1850

8(a) www.sba.gov/8abd
email: 8ABD@sba.gov or 8aQuestions@sba.gov
Tel: (202) 205-5180

For a comprehensive listing of SBA Offices of Government Contracting, see: <http://www.sba.gov/GC/pcr.html#area1>

For on-line training course on SBA Certifications, see <http://www.sba.gov/training/certprograms.html>

Federal Web Portal for Veterans in Business, see: <http://www.vetbiz.gov>
(202) 303-3260